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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
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09/786,839 03/01/01 WHITE

J P 50836

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EXAMINER

DELACROIX MUIRHEI, C

ART UNIT

PAPER NUMBER

1614

DATE MAILED:

06/20/01

Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner of Patents and Trademarks

Office Action Summary

Application No.
09/786,839

Applicant(s)

WHITE

Examiner
Cybill Delacroix-Muirheid

Art Unit
1614



-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136 (a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on _____
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-6 is/are pending in the application.
- 4a) Of the above, claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-6 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claims _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are objected to by the Examiner.
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved.
- 12) ☒ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. § 119

- 13) ☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).
- a) ☐ All b) ☐ Some* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

*See the attached detailed Office action for a list of the certified copies not received.

- 14) ☒ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

Attachment(s)

- 15) ☐ Notice of References Cited (PTO-892)
- 16) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 17) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s). 3
- 18) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 19) ☐ Notice of Informal Patent Application (PTO-152)
- 20) ☐ Other:

DETAILED ACTION

Claims 1-6 are presented for prosecution on the merits.

Information Disclosure Statement

Applicant's Information Disclosure Statement received March 9, 2001 has been considered. Please refer to Applicant's copy of the 1449 submitted herewith.

Oath/Declaration

1. The oath or declaration is defective. A new oath or declaration in compliance with 37 CFR 1.67(a) identifying this application by application number and filing date is required. See MPEP §§ 602.01 and 602.02.

The oath or declaration is defective because: the filing date indicated for PCT/US99/20957 is incorrect. The filing date should read --15 September 1999-- not "18 September 1999".

Specification

2. This application does not contain an abstract of the disclosure as required by 37 CFR 1.72(b). An abstract on a separate sheet is required.

Claim Objections

3. Claims 2, 4 and 5 are objected to because of the following informalities: in claims 2 and 5, the left parentheses for the compound N-(-2-Hydroxy-4-nitrophenyl)-N'-(2-bromophenyl)urea should be a bracket.
4. In claim 4, line 2, --administering-- should be added between "comprises" and "to". Appropriate correction is required.

Claim Rejections - 35 USC § 103

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

7. Claims 1-6 are rejected under 35 U.S.C. 103(a) as being unpatentable over White et al. in view of Widdowson.

White et al. teach methods of administering the CXCR2 antagonist (N-(2-hydroxy-4-nitrophenyl)-N-(2-bromophenyl)urea) to rabbits. Results demonstrate that said antagonist inhibited IL-8 induced neutrophil migration. Please see the abstract.

White does not disclose administration of the CXCR2 antagonist to humans or that the antagonist inhibits T-cell chemotaxis. However, the Examiner refers to Widdowson which discloses that CXCR2 compounds inhibit chemotaxis of neutrophils and T-cells and further that said compounds may be useful in treating a variety of diseases such as psoriasis or asthma. Please see the abstract.

It would have been obvious to one of ordinary skill in the art to modify the method of White to administer the antagonists to humans, as taught by Widdowson, because Widdowson raises reasonable expectation of success by disclosing that CXCR2 compounds are effective in inhibiting neutrophil and T-cell chemotaxis in humans. Thus, such a modification would have been motivated by the reasoned expectation of successfully treating humans in need of inhibition of neutrophil or T-cell chemotaxis.

With respect to further administering CXCR1 compounds, this would have been obvious to one of ordinary skill in the art in view of White which discloses that the CXCR1 receptor is also involved in the

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activation of neutrophils through IL-8 (see abstract). One of ordinary skill in the art would reasonably expect antagonists of CXCR1 to also inhibit the migration of neutrophils.

Conclusion

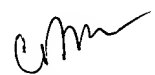
Claims 1-6 are rejected.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Cybille Delacroix-Muirheid whose telephone number is (703) 306-3227. The examiner can normally be reached on Tue-Fri from 8:30 to 6:00. The examiner can also be reached on alternate Mondays.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Marianne Seidel, can be reached on (703) 308-4725. The fax phone number for this Group is (703) 308-4242.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Group receptionist whose telephone number is (703) 308-0196.

CDM



June 15, 2001


Cybille Delacroix-Muirheid
Patent Examiner Group 1600